



Posted: May 28, 1998

Order 98-5-32

10 a.m.

Served: June 2, 1998

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

**Action on IATA Agreement
Issued by the Department of Transportation
on the 28th day of May, 1998**

Agreement adopted by the Tariff :
Coordinating Conferences of the : Docket OST-98-3762
International Air Transport Association :
relating to passenger fares :

ORDER

Various members of the International Air Transport Association (IATA) have filed an agreement with the Department under section 41309 of Title 49 of the United States Code (the Code) and Part 303 of the Department's regulations. The agreement was adopted by mail vote for effectiveness on May 1, 1998.^{1/}

The agreement increases first class fares from the United States to Argentina, Brazil and Uruguay by three percent for midweek travel with fares for weekend travel set at levels five percent above the new midweek levels.

We have decided to approve the agreement. Based on our review of the information submitted and other relevant material, we conclude that the agreement will not result in fares that are unlawful or injurious to competition in the markets at issue.

In particular, our approval of the increase proposed for these premium, first class fares is consistent with Department policy as stated in Order 85-3-8, March 4, 1985. We allow carriers wide latitude in establishing levels for this type of fare, which is generally sensitive to market demand and other competitive pressures that obviate the need for regulatory intervention in most cases.

Pursuant to authority assigned by the Department's Regulations,
14 CFR 385.13:

1. We do not find the following resolution, which is incorporated in the agreement in Docket OST-98-3762 and which has direct application in foreign air transportation as defined by the Code, to be adverse to the public interest or in violation of the Code.

Docket IATA Resolution

^{1/} IATA PTC1 Telex Mail Vote 932 (as amended by telex TD248), filed with the Department on April 20, 1997.

OST-98-3762 PTC1 (Mail Vote 932) 010f

2. This agreement is a product of the IATA tariff conference machinery, which the Department found to be anticompetitive but nevertheless approved on foreign policy grounds by Order 85-5-32, May 6, 1985. The Department found that important transportation needs were not obtainable by reasonably available alternative means having materially less anticompetitive effects. Antitrust immunity was automatically conferred upon these conferences because, where an anticompetitive agreement is approved in order to attain other objectives, the conferral of antitrust immunity is mandatory under section 41308 of the Code.

Order 85-5-32 contemplates that the products of the fare and rate conferences will be subject to individual scrutiny and will be approved, provided they are of a kind specifically sanctioned by Order 85-5-32 and are not adverse to the public interest or in violation of the Code. As with the underlying IATA conference machinery, upon approval of a conference agreement, immunity for that agreement must be conferred under the Code. Consequently, we will grant antitrust immunity to the agreement in Docket OST-98-3762 as set forth in finding paragraph 1 above.

ACCORDINGLY,

We approve and grant antitrust immunity to the agreement contained in Docket OST-98-3762, as set forth in finding paragraph one above.

Persons entitled to petition the Department for review of this order, under 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Department of Transportation upon expiration of the above period, unless within such period a petition for review is filed or the Assistant Secretary for Policy and International Affairs gives notice that he will review this order on his own motion.

By:

Paul L. Gretch
Director, Office of International Aviation

(SEAL)

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